

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6661

BILL NUMBER: HB 1132

NOTE PREPARED: Dec 28, 2007

BILL AMENDED:

SUBJECT: Drug Testing of Public Works Contractor Employees.

FIRST AUTHOR: Rep. Van Haaften

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ GENERAL
☒ DEDICATED
☒ FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill repeals the current drug testing statute concerning public works contracts.

The bill requires the employees of certain public works contractors to submit to drug testing. It specifies requirements for a contractor's employee drug testing program. The bill also provides that a contract that complied with the current statute is considered to comply with the new statute.

Effective Date: July 1, 2008.

Explanation of State Expenditures: The bill would expand the state drug testing policy for public works projects to include construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, other improvement, building, facility, or other structure leased. The bill would expand the coverage to Department of Transportation projects.

The bill may increase the cost of state public works projects if the contractor and subcontractors include the cost of drug testing in their bids. The testing cost could range from about \$6 per test to \$500 per test, depending on the test used. In the aggregate, the testing costs would probably represent only a minor increase in the cost of a public works project.

Explanation of State Revenues:

Explanation of Local Expenditures: The bill requires contractors and subcontractors to include the plans for their drug testing program with their bids. The programs must include:

1. 50% of a contractor's employees must be randomly selected annually.
2. The test must test for at least:
 - a. Amphetamines.
 - b. Cocaine.
 - c. Opiates (2000 ng/ml).
 - d. PCP.
 - e. THC.
3. The program uses the levels set forth in the federal Procedures for Transportation Workplace Drug and Alcohol Testing Programs as the applicable cutoff levels for positive testing.
4. The program uses an accredited laboratory approved by the United States Department of Health and Human Services.
5. The program uses and pays for at least one substance abuse professional who performs or monitors, or both, all:
 - a. Evaluations;
 - b. Counseling; and
 - c. Rehabilitation programs;
 for an employee who fails a drug test.
6. Impose progressive discipline on an employee who fails a drug test. The discipline measures must include, at a minimum, all the following:
 - a. Employee is subject to suspension or immediate termination from employment.
 - b. The employee is not eligible for reinstatement to employment until the employee tests negative on a five-drug panel test.
 - c. The employee is subject to unscheduled sporadic testing for at least one year after reinstatement.
 - d. The employee would also have to be directed to a program of treatment or rehabilitation and be subject to unannounced testing for one year.

After June 30, 2009, a contractor's drug testing policy must also contain the additional requirement that a construction employee:

1. Before being eligible to work for a contractor, an employee must:
 - a. Have successfully passed an initial or pre-employment drug test; and
 - b. Possess an identification card from the drug-testing program that indicates that the employee is available for work.
2. An employee chosen for a random drug must complete the test not more than 72 hours after receiving notice.

The testing cost could range from about \$6 per test to \$500 per test, depending on the test used. In the aggregate, the testing costs would probably represent only a minor increase in the cost of a public works project.

Explanation of Local Revenues:

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources:

Fiscal Analyst: Chuck Mayfield, 317-232-4825.